

REMARKS

1. Status of Amendments:

Claims 1-77 are pending and stand as amended in a Response to Office Action that was filed November 13, 2001. Other claim amendments have been presented by Applicants since then; however, these have **not** been entered including:

- Amendments to claims 1, 20, 42 and 45 presented in a Response to Final Office Action that was filed February 26, 2003 and again in a Supplemental Response that was filed April 28, 2003.
- Amendment to claim 1 proposed in a facsimile to Examiner Kifle on May 13, 2003 and discussed during a subsequent Telephone Interview.

2. Present Amendment:

Canceled claims

The present Amendment cancels claims 15, 20-21, 24-40 and 46-77 (the latter were previously withdrawn). Cancellation of these claims is made without prejudice, without intent to abandon any original claimed subject matter, and without intent to acquiesce in any rejection of record. In particular, claim 1 has been amended to include the structure of canceled claim 20. Applicant further reserves the right to file one or more continuing applications containing any of these canceled claims.

Amended claims

Claims 42 and 45 (method of making claims) have been amended to have the same scope as compound claim 1. This exact same Amendment was previously presented in the Response to Final Office Action that was filed February 26, 2003. In an Advisory Action mailed March 12, 2003 the Examiner indicated that as a consequence of this Amendment, withdrawn claims 42-45 would be considered along with claims 1-41.

Claim 2 has been amended to include the limitations of original claim 19 (and intermediate claim 9).

Claims 3-6, 9, 14, 18-19, 41 and 44 have been amended to correct a series of improper multiple dependencies.

Claim 16 has been amended to depend from claim 14 as a consequence of the cancellation of claim 15.

Claims 22 and 22 have been amended to depend from claim 1 as a consequence of the cancellation of claim 20.

Claims 1 and 7 have been amended to include the moiety $-NR^B C(O)NR^A R^B$ (see, e.g., page 4, line 25 for support).

Claims 10 and 12-13 have been amended by deleting all occurrences of the terms *substituted* or *optionally substituted*.

Claim 1 has also been amended by:

- adding the structure of cancelled claim 20 in the alternative;
- deleting all occurrences of the phrase *substituted* or *unsubstituted*;
- adding *aroyl* or *heteroaroyl* to the definition of R^{28} and R^{43} (see, e.g., page 3, lines 21-22 for support);
- adding an explicit definition of an *aliphatic* moiety (see, e.g., page 30, line 34 to page 31, line 2 for support);
- adding an explicit definition of a *heteroaliphatic* moiety (see, e.g., page 30, line 34 to page 31, line 2 for support);
- adding an explicit definition of an *aryl* moiety (see, e.g., page 30, line 34 to page 31, line 2 for support);
- adding an explicit definition of a *heteroaryl* moiety (see, e.g., page 30, line 34 to page 31, line 2 for support); and
- adding an explicit definition of an *acyl* moiety (see, e.g., page 5, lines 17-19; page 7, lines 3-6; and page 31, lines 1-2 for support).

New claims

New claims 78, 80, 85, 87 and 88 have been added (e.g., see page 30, line 34 to page 31, line 14 and page 32, line 10 for support and also claim 47 on page 87-88 for definitions of R^2 and R^{11}). For claim 80 see also original claims 10, 12-13 and 15 for support.

New claims 79 and 86 have been added (e.g., see page 31, lines 8-31 and especially lines 21-24 for support).

New claims 81-83 have been added (e.g., see page 7, lines 9-11 and 26-28; page 71, lines 27-30; and page 72, lines 18-20 for support).

New claim 84 has been added (e.g., see original claim 1 for support).

New claim 89-90 have been added (e.g., see original claims 1 and 20 for support).

3. Rejection under 35 U.S.C. § 112, second paragraph:

The only rejection that remains in the present application is for lack of definiteness under 35 U.S.C. § 112, second paragraph. Applicant would like to take this opportunity to thank Examiner Kifle for taking the time and effort to consider and discuss the several proposed claim amendments that Applicant has presented via communications on February 26, 2003; April 28, 2003 and May 13, 2003. The most recent communication of record from the Examiner on this issue was presented in an Advisory Action mailed March 13, 2003. Each point raised in that Advisory Action is therefore considered in turn below.

Substituents on R²⁸ and R⁴³

The Examiner states that the substituents on R²⁸ and R⁴³ are not known. Applicant has canceled claims 15 and 20, 31, 33-34 and 36 and deleted the terms “substituent” or “optionally substituted”, etc. from claims 1, 10 and 12-13. New dependent claims 78-80 and 85-88 refer to specific substituents that are explicitly described in the specification. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Aliphatic, heteroaliphatic, aryl, heteroaryl, and acyl

The Examiner states that the acyl group is open-ended and that the definitions of heteroaliphatic, aryl and heteroaryl are not consistent with what is commonly known. Applicant has added explicit definitions for each of these terms in claim 1 (and other relevant claims). As discussed in the Response to Final Office Action that was filed February 16, 2003 (and as was discussed during a telephone interview) these definitions are not inconsistent with what is commonly known in the art. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Pharmaceutically acceptable derivative


The Examiner objects to the use of the term "pharmaceutically acceptable derivative". Applicant has amended the language to read "pharmaceutically acceptable salt". The Examiner indicated during a telephone interview that such an Amendment would probably overcome the objection. Reconsideration is therefore requested.

4. Conclusion:

For the reasons presented above, it is submitted that the pending claims are allowable. If the Examiner feels that a telephone interview would expedite the prosecution of this case towards allowance he is invited to contact the undersigned at 617-248-4793. In addition, please charge any fees that may be required, or credit any overpayment, to our Deposit Account No. 03-1721.

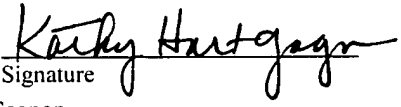
Respectfully submitted,

Dated: December 19, 2003



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Limited Recognition Under 37 CFR §10.9(b)

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